

the one who receives the communication shall place in the public record of the proceeding:

(1) Such communication if written, or a memorandum stating the substance of such communication if oral; and

(2) A copy of any written response or a memorandum stating the substance of any oral response thereto.

(d) Copies of all such items placed or included in the record, as provided in this section, shall be served on all parties.

(e) For purposes of this section “ex parte communication” means an oral or written communication not on the public record with respect to which reasonable prior notice to all parties is not given, but it shall not include a request for a status report on any matter or the proceeding.

§ 202.123 Rule 23: Action by Secretary.

The Secretary may act in the place and stead of a presiding officer or the judicial officer in any proceeding hereunder, or any matter in connection therewith.

RULES OF PRACTICE APPLICABLE TO ALL OTHER PROCEEDINGS

SOURCE: Sections 202.200 and 202.210 were added at 72 FR 19109, Apr. 17, 2007, unless otherwise noted.

§ 202.200 Scope and applicability of rules of practice.

The Uniform Rules of Practice for the Department of Agriculture promulgated in Subpart H of Part 1, Subtitle A, Title 7, Code of Federal Regulations, are the Rules of Practice applicable to adjudicatory, administrative proceedings under the Packers and Stockyards Act, as amended (7 U.S.C. 181 *et seq.*). In addition, the Supplemental Rules of Practice set forth in this part shall be applicable to such proceedings.

§ 202.210 Stipulations.

(a) The Administrator may enter into a stipulation with any person operating subject to the Packers and Stockyards Act, as amended (P&S Act), prior to issuing a complaint that seeks a civil penalty against that person.

(1) The Administrator will give the person notice of an alleged violation of the P&S Act or regulations and provide an opportunity for a hearing;

(2) The person has the option to expressly waive the opportunity for a hearing and agree to pay a specified civil penalty within a designated time;

(3) The Administrator will agree to settle the matter by accepting payment of the specified civil penalty within a designated time;

(4) If the person does not agree to the stipulation, or does not pay the penalty within the specified time, the Administrator may issue an administrative complaint citing the alleged violation; and

(5) The civil penalty that the Administrator proposed in a stipulation agreement has no bearing on the civil penalty amount that may be sought in a formal administrative proceeding against the same person for the same alleged violation.

(b) [Reserved]

PART 203—STATEMENTS OF GENERAL POLICY UNDER THE PACKERS AND STOCKYARDS ACT

Sec.

203.1 [Reserved]

203.2 Statement of general policy with respect to the giving by meat packers of meat and other gifts to Government employees.

203.3 [Reserved]

203.4 Statement with respect to the disposition of records by packers, live poultry dealers, stockyard owners, market agencies and dealers.

203.5 Statement with respect to market agencies paying the expenses of livestock buyers.

203.6 [Reserved]

203.7 Statement with respect to meat packer sales and purchase contracts.

203.8-203.9 [Reserved]

203.10 Statement with respect to insolvency; definition of current assets and current liabilities.

203.11 [Reserved]

203.12 Statement with respect to providing services and facilities at stockyards on a reasonable and nondiscriminatory basis.

203.13 [Reserved]

203.14 Statement with respect to advertising allowances and other merchandising payments and services.

203.15 Trust benefits under sections 206 and 207 of the Act.